

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PROCTER & GAMBLE COMPANY,

Plaintiff,

v.

MCNEIL-PPC, INC.,

Defendant.

OPINION AND ORDER

08-cv-251-bbc

Plaintiff Procter & Gamble Co. commenced this action alleging that teeth whitening strips manufactured and sold by defendant McNeil-PPC, Inc. infringe plaintiff's United States Patents Nos. 6,949,240 and 6,551,579. Both parties have moved the court to construe certain claim terms of the patents-in-suit. Defendant has moved for a hearing to aid in the construction of the following five claim terms: "strip of material," "a layer of tooth whitening substance," "a layer of tooth whitening composition," "release liner" and "disposed on said strip of material." In support of its request for a hearing defendant notes that the disputes relate to "physical dimensions, properties and functions of the objects the terms refer to and to the orientation of those objects with respect to each other." Defendant suggests that the construction process would be aided by "a presentation with graphic

representations.”

I conclude that argument and graphic representations of the teeth whitening strips can be adequately presented in written submissions without the need for oral presentation. I will therefore deny defendant’s request for an oral hearing.

ORDER

IT IS ORDERED that defendant McNeil-PPC, Inc.’s request for a hearing on the construction of claim terms is DENIED.

Entered this 2d day of October, 2008.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge